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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

RED HAT, INC.,

Plaintiff,

v.

VIRTAMOVE, CORP.,

Defendant.

CASE NO. 5:24-CV-04740-PCP

**DECLARATION OF KYLE  
CALHOUN IN SUPPORT OF  
PLAINTIFF RED HAT'S OPPOSED  
ADMINISTRATIVE MOTION FOR  
LEAVE TO FILE A SUR-REPLY IN  
SUPPORT OF OPPOSITION TO  
MOTION TO DISMISS**

Jury Trial Demanded

Judge: Hon. P. Casey Pitts  
Courtroom: 8, 4<sup>th</sup> Floor

DECLARATION OF KYLE CALHOUN IN  
SUPPORT OF OPPOSED ADMINISTRATIVE  
MOTION FOR LEAVE TO FILE A SUR-  
REPLY ISO OPPOSITION TO MOTION TO  
DISMISS

CASE NO. 5:24-CV-04740-PCP

1 I, Kyle Calhoun, declare as follows:

2 1. I am an attorney licensed to practice law in California and am a partner with the law firm of  
3 Kirkland & Ellis LLP, located at 555 California Street, San Francisco, CA 94104. I am counsel for  
4 Plaintiff Red Hat, Inc. ("Plaintiff" or "Red Hat") in this action. I submit this declaration pursuant to  
5 Civil Local Rules 7-11(a) in support of Plaintiff Red Hat's Administrative Motion for Leave to File a  
6 Sur-reply to VirtaMove's Motion to Dismiss (the "Motion"). I have knowledge of the facts set forth  
7 herein, and if called to testify as a witness, could do so competently under oath.

8 2. Red Hat seeks leave to submit a short sur-reply to VirtaMove's Motion to Dismiss in order  
9 to address Defendant VirtaMove's new arguments that it raised for the first time in its reply brief.

10 3. Defendant VirtaMove opposes Red Hat's Administrative Motion for Leave to File a Sur-  
11 reply. To obtain a stipulation from Defendant, Red Hat has engaged in earnest efforts, including  
12 stipulating to VirtaMove's own request for a sur-reply to Red Hat's Contingent Motion to Conduct  
13 Jurisdictional Discovery. Despite Red Hat's efforts to limit the number of disputes raised with the  
14 Court, Red Hat was not able to obtain a stipulation from Defendant VirtaMove.

15 4. I declare under penalty of perjury under the laws of the United States of America that the  
16 foregoing is true and correct.

17 Executed on November 13, 2024 in San Francisco, CA.

18  
19 /s/ Kyle Calhoun  
Kyle Calhoun